

OFFICIAL GAZETTE

GOVERNMENT OF GOA

GOVERNMENT OF GOA

Department of Urban Development

Notification

3/13/18/87-DUD

In exercise of the powers conferred by sub-section (1) of section 307 read with section, 105, 143, 265, 266 and 323 of Goa, Daman and Diu Municipalities Act, 1968 (Act 7 of 1969), and all other powers enabling it in this behalf, the ... Municipal Council, after previous sanction of the Government of Goa and in terms of its Council resolution dated ... hereby makes the following Bye-Laws for information of the residents of the ... Municipal area.

These Bye-Laws shall come into force on the date of its publication in Official Gazette.

Short title. — These Bye-Laws may be called the Trade and Occupation licencing Bye-Laws, 1989.

Definitions. — In these Bye-Laws unless the context otherwise requires.

(i) 'Act' means the Goa, Daman and Diu Municipalities Act, 1968 (Act 7 of 1969);

(ii) 'Licensee' means the person to whom licence has been granted under these Bye-Laws and includes the persons nominated by him in the licence to carry on some trade or occupation on his behalf;

(iii) 'Licensed premises' means the premises in respect of which the licence has been granted under these Bye-Laws;

(iv) 'Manager' means a licensee himself or a person appointed by the Licensee to run the trade or occupation on his behalf;

(v) 'Schedule' means a Schedule appended to these Bye-Laws.

(vi) 'Trade' means any business, or commercial activity which are shown in the Schedule appended to these Bye-Laws;

(vii) 'Occupation' means any purpose for which the premises are occupied other than for residence, religious, educational or charitable purpose.

Bye-Law 1. No person shall, except under and in accordance with the conditions of the licence granted under these Bye-Laws keep or allow to be kept in

or upon any premises in the Municipal area any of the articles specified in the Schedule or use the premises for the purpose of transacting the trades/occupations as shown in the Schedule.

Bye-Law 2. The licence to be granted under Bye-Law 1 above, shall be in Form 'A' appended hereto.

Bye-Law 3. Any person desiring and being entitled to under these Bye-Laws to carry on any trade or occupation mentioned in the Bye-Laws or Schedule shall apply to the Chief Officer for any trade or occupation licence in the prescribed Form 'B'.

Provided that those already carrying on such Trades and Occupation shall within 90 days from the date on which these Bye-Laws come into force, apply to the Chief Officer for licence of such Trades and Occupation.

Bye-Law 4. The Chief Officer may grant or refuse to grant the licence applied for. If the licence is refused, the reasons for refusal shall be stated in the order of refusal.

Bye-Law 5. Every licence shall expire at the end of the licencing year i.e. 31st March and it shall be renewed during the months of April/May on payment of the fees prescribed under the Schedule read with Bye-Law No. 28. On default of payment of fee within the specified time limit, the defaulter shall be liable for penalty not exceeding 25% during the first half of the licensing year and 50% for every subsequent year subject to maximum of two years after which the licence shall stand cancelled. He shall apply for fresh licence and on payment of fine of Rs. 1,000/-, a fresh licence may be issued if the Chief Officer is satisfied that the licensee could not renew the licence within the prescribed time limit for reasons beyond his control.

Bye-Law 6. The licence fees chargeable in respect of a Trade/Occupation or for purpose shown in column of Schedule shall be as shown in the respective column against the item concerned.

Bye-Law 7. Every person applying a licence to the Chief Officer shall submit the application in writing in the prescribed Form 'B' and shall also, if so required by the Chief Officer furnish the details of the premises such as location, area, reference to payment of House Tax, plans of the premises, reference to occupancy certificate, N.O.C. from the owner, lease deed, rent receipts, number of employees employed or such other details as may be called for by the Chief Officer.

Bye-Law 8. The Licensee shall adopt measures as may be required by the Chief Officer for the prevention of all nuisance by smoke, gas, vapour, dust, fumes, smell, noise or other such impurities and cause all materials not required for immediate use to be kept in such manner so as to prevent the emission of noxious or injurious effluvia therefrom.

Bye-Law 9. The Licensee shall provide in the premises proper water supply, wash basins, w. c. whenever specific trade or occupation so demands, according to the satisfaction of the Chief Officer.

Bye-Law 10. The licensee shall cause all the refuse matter from the premises to be collected and deposited in suitable covered receptacles. He shall cause all the refuse to be removed atleast once a day and deposited in the Municipal dust bin.

Bye-Law 11. The licensee shall provide sufficient light and ventilation in the premises wherein the trade and occupation is carried out.

Bye-Law 12. The Licensee shall get all his employees medically examined by the Government Health Officer and maintain their respective health cards which shall be renewed annually and which shall be produced to the Chief Officer or any other Officer duly authorised by him, on demand.

Bye-Law 13. The Licensee shall cause to take all precautions in order to avoid fire hazard in respect of the shops dealing with inflammable products, etc.

Bye Law 14. The Licensee shall cause to pay in the Municipal Office fees in respect of advertisement boards, wall paintings including name boards/name of the shop displayed at the premises in terms of the Notification prescribing these boards.

Bye-Law 15. The Chief Officer may delegate in writing with the permission of the Council one or more powers vested in him under these Bye-Laws to any other Municipal Officer under his control.

Manufacturing of bricks, pottery etc.

Bye-Law 16. The Licensee in respect of premises used for manufacturing or preparing bricks, pottery or lime by any process whatsoever, shall, in addition to the conditions referred to in Bye-Laws 1 to 15 observe the following additional conditions, namely:—

The Licensee —

(i) shall at all times adopt measures to avoid causing nuisance or annoyance to the neighbourhood or the public;

(ii) shall not cause any excavation in any part of the premises or surrounding for any purpose;

(iii) shall not cause any pollution by any means of any river, stream which may be injurious to health or cause any annoyance or nuisance to the public;

(iv) no kiln shall be lit except between the hours of 10.00 a. m. and 2.00 p. m. unless otherwise permitted in writing by the Chief Officer;

(v) shall provide 24 hours water supply in the premises to meet with the needs, cleanliness and of any emergency;

Boiling or storing of Bones, etc.

Bye-Law 17. The Licensee in respect of premises used for boiling or storing offal, blood, bones, melting tallow for soap making, melting sulphur for preparing camphor, catgut, fat, glue or for candle making, shall, in addition to the conditions referred to any Bye-Laws 1 to 15, observe the following additional conditions, namely:—

(i) He shall cause all refuse and rejects to be collected and deposited in suitable non-absorbent and impervious receptacles and dispose the same in 24 hours in such a manner as may be approved by the Chief Officer.

(ii) He shall cause all the utensils and other receptacles upon the premises used for the specific trade to be thoroughly cleaned atleast at the close of every working day;

(iii) He shall further take all measures necessary to prevent emission of noxious or injurious effluvia from all material stored at the premises;

(iv) He shall adopt such measures as may be necessary to render or innocuous any pollutant in or upon such premises;

(v) He shall provide suitable means of drainage upon in connection with such premises and shall cause the same to be maintained at all times in good order and repairs;

(vi) He shall not let any greasy oil or liquid refuse in the Municipal drain;

Manufacture of Fire works etc.

Bye-Law 18. The Licensee of the premises used for manufacturing or preparing by any process whatsoever fire-works, gun-powder, matches, sulphur, saltpetre, chlorate mixture, fulminate of mercury, gun cotton, nitro glycerine, nitro-compound or nitro-mixture or inflammable or explosive gas shall, in addition to the conditions mentioned in Bye-Laws 1 to 15, observe the following additional conditions, namely:—

The Licensee —

(i) shall not use the premises or part thereof for any other purposes mentioned above unless:

(a) it is constructed of masonry or of such other durable material as may be approved by the Chief Officer, and,

(b) unless every part thereof is constructed of non-inflammable or of such other approved non-inflammable material;

(ii) shall cause the flooring of every part of such premises to be paved or otherwise made impervious and drained to the satisfaction of the Chief Officer and such flooring shall be kept at all times in good order and repair;

(iii) shall provide in the premises suitable means of drainage and maintain it in good order at all times;

(iv) adopt means of rendering innocuous all gas, vapour, fumes, dust or other impurities arising out of any source in such premises;

(v) shall provide in such premises suitable means and appliances to combat any outbreak of fire;

(vi) shall not, in or on such premises. —

(a) light or permit the lighting of any fire
(b) use or permit the use of any naked light, or

(c) smoke or permit smoking;

(vii) shall provide in such premises such means of escape in case of outbreak of fire as may be approved by the Chief Officer.

Hair Dressing Saloons, etc.

Bye-Law 19. — The Licensee of premises used as a hair dressing saloon or a barber's shop or a hamamkhana shall, in addition to the conditions specified in the Bye-Law 1-15, also observe the following additional conditions, namely: —

(i) the Licensee shall keep the premises and all the equipments in clean and hygienic conditions and keep ready for the use of customers disinfectants as and when to be provided on demand;

(ii) no person suffering from an open sore or any loathsome, infectious or contagious disease shall be permitted to carry on the business of a barber or be employed in or to assist in the carrying on the afore mentioned business.

(iii) every person employed as a barber in a hair dressing saloon or in a hamamkhana shall obtain a medical certificate every year from the Health Officer to the effect that he is free from diseases or infection of any kind and fit for employment in such business;

Flour Mills etc.

Bye-Law 20. The Licensee of the premises used for flour mill or grinding of condiments mixture shall, in addition to the conditions referred to in Bye-Law 1 to 15, also observe the following additional conditions, namely:

The Licensee —

(i) shall not use any premises unless it is constructed of masonry and unless every part thereof is constructed of non-inflammable materials;

(ii) shall use every means to prevent the emission of noxious or injurious effluvia from any material that may be stored at the premises;

(iii) shall have the floor of the premises suitably paved and made impervious and drained to the satisfaction of the Chief Officer;

(iv) shall at all times keep the containers used in the premises in clean and hygienic conditions;

(v) shall provide suitable guards and fences for shafts, pulleys and both to avoid accidents;

(vi) shall provide the scales approved by the Controller of Weights and Measures.

Fire-Wood, etc.

Bye-Law 21. The Licensee of premises used for keeping timber or fire wood for sale, shall, in addition to the conditions referred in Bye-Laws 1 to 15,

also observe the following additional conditions, namely: —

The Licensee —

(i) shall stack timber of firewood in such a manner so as to prevent damage to the premises;

(ii) Every stack shall not be more than 5 metres in height and should not be placed within a distance of 10 metres from any street, passage or road and 3.00 metres from any shed;

(iii) No licence shall be granted for keeping of timber of firewood within a radius of 15.00 metres from any human habitation;

Kerosene Oil, etc. —

Bye-Law 22. — The Licensee or the holder of a licence granted in respect of premises used for keeping kerosene oil (non dangerous petroleum) for sale or for purpose other than domestic use shall, in addition to the conditions referred to in Bye-Laws 1 to 15 also observe the following additional conditions, namely: —

(1) Every premises used for the purposes of such trade shall be constructed of masonry or such other durable and non-inflammable materials;

(2) Every mobile cart used for sale of kerosene shall be registered in the Municipal Council and its licence should be renewed annually;

Industry, Factory, Workshop, Garage, etc. —

Bye-Law 23. The Licensee, in respect of licence granted for Industry, Factory, Workshop, Garage etc. in addition to conditions mentioned in Bye-Law 1-15, shall observe the following additional conditions, namely: —

(1) Every furnace employed or to be employed in any factory, workshop or place of business in respect of which a licence has been granted, shall be supported or altered as to consume its own smoke as far as practicable and in case there is a failure, the direction prescribing the mode of consumption of such smoke shall be given by the Chief Officer as deemed fit or proper. Such notice of direction shall not be of less than 15 days.

(2) No person shall after the grant of licence under these bye-laws — use any furnace of a factory, workshop or place of business which does not, so far as practicable, consume its own smoke.

(3) Whenever it shall appear to the Chief Officer —

(a) that any factory, workshop or place of business, in respect of which a licence has been granted and to which the provisions of the Factories Act, 1948 are not applicable, is not kept in a clean state or is not ventilated in such a manner as to render harmless, as far as practicable any gas, vapour, soot, dust or other impurity generated in the course of the work carried on therein; or

(b) that any engine, mill gearing, hoist or other machinery therein is so insecurely fenced as to be dangerous to the life or health of the employee or employees or of any person moving

inside the said factory and in and nearby its premises the Chief Officer may direct by a written notice as deemed fit to make the premises free from danger.

(4) No business or process of manufacture undertaken in a factory or workshop or a place of business to whom licence is granted under these bye-laws shall create any nuisance such as a noise or serious pollution to the nearby residences.

Eating Houses, Lodging etc.

Bye-Law 24. The Licensee in respect of the premises used for eating house, tea or coffee shop, restaurant, refreshment room, cold drink house and lodging house (Hotel) shall observe the conditions as below: —

(1) The floor of every cooking room, or kitchen and eating room or dining hall shall be paved to the satisfaction of the Chief Officer and the cooking room or kitchen be separated from the eating room or dining hall.

(2) The walls of every cooking room and eating room shall be limewashed atleast twice a year and the wood thereof, oilpainted by every 3 years.

(3) The Licensee shall provide a receptacle for the storage of water during non-supply hours, if any. This receptacle shall be made of zinc, galvanised iron, or other equally suitable material and shall be placed on a stand atleast 2.6 m. over and above the ground level properly covered with a tight fitting lid and kept under lock and key. The receptacle shall be fixed at a place approved of by the Chief Officer, and shall be regularly cleaned.

(4) The Licensee shall take measures to keep all articles meant for human consumption free from flies.

(5) The Licensee shall provide and maintain in good condition a metal sanitary dust bin of approved pattern provided with a lid and shall use it daily for the storage of waste food and sweepings of the floor. He shall empty its contents daily into the nearest municipal dust bin.

(6) The Licensee shall provide sufficient number of tables in the room reserved for consuming eatables and in the kitchen all tables shall be topped with marble or of wood cover with zinc, brass or sunmica on the upper surface.

(7) The Licensee shall use a metal bin or metal lined wooden box for the storage of any coal, coke or charcoal or fire wood required for the preparation of food. Such bin or box shall be located in a place approved by the Chief Officer.

(8) The Licensee shall provide a proper washing place for cleaning dishes, cups, etc., such washing place shall not be in the room reserved for consuming eatables. It shall be properly drained and connected to a gully trap in drained areas, or into a cesspool in undrained areas to the satisfaction of the Chief Officer.

(9) The Licensee shall keep the licensed premises in a clean condition at all times, and shall take reasonable precautions in respect of the sto-

rage of meat, milk and other articles of human consumption to avoid its deterioration and contamination.

(10) All utensils, used in cooking or for serving articles of food shall be kept in a clean and hygienic condition and to the satisfaction of the Chief Officer.

(11) Every person employed in the licensed premises shall at all times, be dressed in clean clothing.

(12) The licensee shall not employ any person suffering from any infectious disease, in the premises in any capacity.

(13) No impediments or encroachment shall be made on the footpath or public road in front of the licensed premises by placing thereon such as chairs, benches, tables, soda water boxes, or any other articles for the use of the licensee of his customers.

(14) The licensee shall exhibit boards in the regional language prohibiting spitting on the walls or the floor of the premises, and shall provide a sufficient number of spittoons, which shall be conveniently placed/cleaned and disinfected daily.

(15) The licensee of the hotel who provides sleeping accommodation in addition to boarding shall: —

(i) provide whether an independent room or a bed or a sleeping space as required by a visitor in a room which is adequately lighted and ventilated and in all respects suitable for the purpose;

(ii) provide suitable sleeping accommodation for the servants if any, or visitors;

(iii) provide suitable sleeping accommodation for the resident staff and servants.

(iv) maintain the licensed premises in good sanitary condition;

(v) provide accommodation in a room or shall on the following scale;

(a) such room or hall shall have a minimum height of not less than 3 metres and the persons to be accommodated shall have a superficial floor area of not less than 10.0 sq. metres per head.

(vi) provide privies or water closets and bathing places for the use of visitors and the staff to the satisfaction of the Chief Officer;

(vii) provide a sufficient supply of pure drinking water;

(viii) limewash the licensed premises atleast twice a year in the months of April and October;

(ix) not allow in the licensed premises any visitors desiring to stay if he knows or has good reason to believe that the visitor is suffering from any infections and shall report, as soon as it comes to his notice that the visitor after occupying the hotel has suffered from an infectious disease, the fact to the Chief Officer or to the Health Officer.

Bye-Law 25. — Every person who does or omits to do any act in contravention of any provisions of these bye-laws, shall, be liable to a fine of 25% of the licence fee on the 1st occasion and revocation of licence on recurrence of the offence.

Bye-Law 26. — The Bye-Laws in force immediately before the commencement of these Bye-Laws shall stand repealed except in respect of things done or omitted to be done under the Bye-Laws in force before their repeal.

Bye-Law 27. — Any licensee aggrieved by the decision of the Chief Officer may within 30 days from the date of such grievance, submit an appeal to the Council through the Chief Officer and the Council shall decide upon his appeal within the provisions of these bye-laws. If any difficulty arises as to the construction or meaning of these Bye-Laws, the decision of the Council in this regard shall be final.

Bye-Law 28. — A Licence is valid only for the premises specified in the licence and if the Licensee desires to carry on such trade or any occupation connected therewith, in additional room or space, he shall apply for a fresh licence.

Bye-Law 29. — If the licensee vacates, or gives up possession of the premises during the period of the licence, he shall forthwith inform the Chief Officer of the same.

Bye-Law 30. — A licence is not transferable either as regards the person to whom or the premises for which it is granted without written permission of the Chief Officer.

Bye-Law 31. — The Licensee shall cause such licence to be affixed in some conspicuous part of the licensed premises.

Bye-Law 32. — The Licensee shall at all hours, while the licensed premises are open, allow the

municipal officers or servants authorised by the Chief Officer to enter his premises, and afford every facility for inspecting the place, also the vessels, articles of food or drink, or the furniture and shall comply with the directions that the Chief Officer may give in writing for securing cleanliness, light, and air, or otherwise.

Bye-Law 33. — The Licensee shall be liable to suspension or revocation if the licensed premises are so kept, or any process or operation connected with it, is so carried on as to be, in the opinion of the Chief Officer, a source of nuisance, or danger to life, health or property.

Bye-Law 34. — The Licensee shall at all time, during the continuance of the licence, be responsible for the due fulfillment and observance of all the conditions of the licence and in case of any infringement of or neglect, of failure on the part or the licensee, or any agent or other person employed shall render the licensee for a penal fine of the licence fee on first occasion and 50% on every subsequent occasion.

Bye-Law 35. — The Licence fee shall be deemed to be revised every alternate year by 10% of the licence fee of the proceeding official year. Any fraction of it arrived shall be rounded to the nearest rupee.

Bye-Law 36. — These Bye-Laws shall not be applicable to Government Offices but shall apply to autonomous bodies and Corporations.

By order and in the name of the Governor of Goa.

D. V. Sathe, Under Secretary to the Government of Goa U.D.

Panaji, 13th July, 1989.

SCHEDULE

SCHEDULE OF TRADES/OCCUPATIONS FOR THE PURPOSE OF YEARLY LICENCE FEES

Sr. No.	Type of Activity	No. of employees and amount in rupees				
		Flat Rate	1 to 5	6 to 10	11 to 20	21 and above
1	2	3	4	5	6	7
1. Agencies.						
a) Banks	100	150	200	250
b) Commission Agents	100	150	200	250
c) Purchase, sales of properties & other transactions	100	150	200	250
d) Tours & Travels (road)	100	150	200	250
e) Navigation	100	150	200	250
f) Air Travel	100	150	200	250
g) Insurance	150	300	450	500
h) Transport of goods	100	150	200	250
i) Hire of furniture crockery	...	100	—	—	—	—
j) Agency for hire/sales of articles (general)	...	150	—	—	—	—
k) Stevedoring	...	150	—	—	—	—
l) Press reporting offices/Advocate offices	...	100	—	—	—	—
2. Contractors Offices.						
1) a) Class A contractors	...	250	—	—	—	—
b) Class B	...	200	—	—	—	—

1	2	3	4	5	6	7
c) Class C	"	150	—	—	—	—
d) Class D	"	100	—	—	—	—
ii) Estate Developers	...	250	—	—	—	—
3. Commercial Houses.						
a) Ammunitions, electric appliances, construction material, machines, hardware, tools, etc.	100	150	200	250
b) Sales of automobiles, motorized vehicles or spares	100	150	200	250
c) Wines, liquors, beverages	100	150	200	250
4. Commercial Institutes.						
a) Commercial institutes	...	150	—	—	—	—
b) Motor driving schools	...	100	—	—	—	—
c) Tailoring schools/tailoring shops	...	50	—	—	—	—
5. Cinema Theatres.						
a) Cinemas/Theatres	...	250	—	—	—	—
b) Circus (Temporary), Exhibitions	...	50	—	—	—	—
c) Drama or show, open air dances (excluding free performance)	...	50	—	—	—	—
6. Confectionery.						
Bakeries/Confectioneries	...	50	—	—	—	—
7. Establishments/Offices.						
Commercial or industrial offices	...	—	100	150	200	250
8. Farms.						
Poultry and other type of animal farms	...	100	—	—	—	—
9. Firewood/scrap depot	...	50	—	—	—	—
10. Gymnasium & Skill Game Centres	...	50	—	—	—	—
11. Hospitals/Nursing/Maternity Homes	...	100	—	—	—	—
Consulting room (per unit)	...	50	—	—	—	—
12. Industries.						
a) Cottage Industries	...	—	50	100	150	200
b) Any other type of Industry	...	—	100	150	200	250
13. Jewellery Shop	...	—	100	150	200	250
14. Laundries	...	50	—	—	—	—
15. Milk supplying and Milk products centres, Dairy etc.	...	50	—	—	—	—
16. Newspapers/Magazines editing houses/printing presses	...	—	100	150	200	250
17. Pharmacies/Druggists/Chemists						
a) Wholesalers	...	—	100	150	200	250
b) Retailers	...	—	100	150	200	250
18. Shops/Stores.						
Grocery, provision, cloth perfumery, stationery, hosiery, crockery, sports goods, shoes etc.	...	—	100	150	200	250
19. Saloons.						
a) Barber shop/hair cutting saloon/Hamamkhana	...	—	20	30	40	50
b) Hair dressing saloons/beauty clinics	...	—	30	40	50	60
20. Printing/binding press other than magazine & newspapers	50	100	150	200
21. Studios (Photographic)	...	100	—	—	—	—
Workshops						
a) Watch repairers	...	50	—	—	—	—
b) Electric appliances, carpentry, soldering smiths, vehicles, garages	...	—	75	100	125	150
22. a) Godowns for storage of goods etc.	...	250	—	—	—	—
b) Transport godown	...	250	—	—	—	—
23. Hotels/Restaurants.						
a) One to Three Star	...	200	—	—	—	—
b) Four to Five Star	...	250	—	—	—	—

1	2	3	4	5	6	7
24. Tea/Coffee Hotels.						
a) A - Grade		200	—	—	—	—
b) B - Grade		150	—	—	—	—
c) C - Grade		100	—	—	—	—
25. Lodging Houses/Boardings.						
a) upto 25 beds		50	—	—	—	—
b) 25 to 50 beds		100	—	—	—	—
c) 50 to 75 beds		150	—	—	—	—
d) 75 to 100 beds		200	—	—	—	—
e) 100 beds and above		250	—	—	—	—
26. Any other non-specified Trade or Occupation		—	100	150	200	250

FORM 'A'

... Municipal Council

LICENCE

(See Bye-Law No. 2 of ... Municipal Council Trades and Occupation Bye-Laws, 1989)

Licence is hereby granted to ... for running in House No. ... ward no. ... in ... Municipal Area as per the ... Municipal Council Trade and Occupation Bye-Laws 1989. The Licensee shall follow and fulfil the conditions given in the Bye-Laws. This licence shall be produced for inspection to any municipal authority on demand.

Licence is valid upto ... and subject to further renewal as per the Bye-Laws.

(Chief Officer)

... Mun. Council.

Renewal

1. Year 19... to 19... Receipt No. ... Date ...
2. Year 19... to 19... Receipt No. ... Date ...
3. Year 19... to 19... Receipt No. ... Date ...
4. Year 19... to 19... Receipt No. ... Date ...
5. Year 19... to 19... Receipt No. ... Date ...

FORM 'B'

... Municipal Council

... Goa

APPLICATION FORM

(Pl. See Bye-Law No. 3 of Trades and Occupation Bye-Law 1989)

1. Full Name of the Applicant: — (Block Letters).
2. Address of Correspondence: —
3. Name & Style of Trades: —
4. Relation of applicant with the entity functionary under the name and styles.

Department of Labour

Notification

25/9/88-LAB

In exercise of the powers conferred by sub-clause (b) of clause (ii) or section 2 of the Payment of Wages Act, 1936 (Central Act 4 of 1936) (herein-after called the 'said Act'), the Government of Goa hereby specifies the following establishments as

5. Authority of the applicant to seek permission from the entity support with due document if any: —

6. In case of liable action under any Section against whom proceeding should be taken:—

(Indicate name and address of the person with his written consent in the form accepted to the Chief Officer).

7. Description of the Trade/Business premises: —

(Location house no., ward no., Name of Street, area of plot area & administration/building prescribed given on drawing).

(Occupancy Certificate, N. O. C. of Owner).

8. a) Indicate type of business: —
or

b) Process of manufacturing in brief.

9. Indicate the mode of consumption of smoke/ and other pollutions/ disposal of drain water: —

10. Whether premises are fenced and guarded, if not, what measures are taken to prevent danger if any likely to be carried out to the public or trespassers or nearby resident.

11. Whether permission of licence has been granted by any other authority such as Chief Inspector of Factories, Industries Dept., Excise Dept. and the nature of such licence: —

12. No. of employees appointed: —

The above information given by me is true to the best of my knowledge and belief.

Place: ...

Dated: ...

(Signature & Name)

"industrial or other establishment" for the purpose of the said Act.

- (1) Establishments run by any local Authority-Municipal Councils; and
- (2) Shops and establishments as defined under the Goa, Daman and Diu Shops and Establishments Act, 1973, (Act 13 of 1974).

By order and in the name of the Governor of Goa.

Subhash V. Elekar, Under Secretary (Labour).

Panaji, 16th August, 1989.

Legislature Department

LA/B/1739/1989

Dated 27-8-1989

The following Bill which was introduced in the Legislative Assembly of Goa on 11-8-89 is hereby Published for General information in Pursuance of the Provisions of Rule - 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Regulation of Employment and Conditions of Service of Migrant Workmen Bill, 1989

(Bill No. 19 of 1989)

A
BILL

to regulate the employment of migrant workmen and to provide for their conditions of service and for matters connected therewith.

Be it enacted by the Legislative Assembly of Goa in the Fortieth Year of the Republic of India as follows:

1. *Short title and commencement.* — (1) This Act may be called the Goa Regulation of Employment and Conditions of Service of Migrant Workmen Act, 1989.

(2) It shall come into force at once.

2. *Definitions.* — In this Act, unless the context otherwise requires, —

(a) "Contractor", in relation to an establishment, means a person who undertakes (whether as an independent contractor, agent, employee or otherwise) to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, by the employment of workmen or to supply workmen to the establishment, and includes a sub-contractor, agent or any other person by whatever name called, who recruits or employs workmen;

(b) "establishment" means place where any industry, trade, business, manufacture or occupation is carried on;

(c) "Government" means the Government of Goa;

(d) "migrant workmen" means any person from outside the State of Goa who is recruited by or through a contractor under an agreement or other arrangement for employment in an establishment in Goa whether with or without the knowledge of the principal employer.

(e) "prescribed" means prescribed by rules made under this Act;

(f) "principal employer" means any person responsible for the supervision and control of the establishment;

(g) "recruitment" includes entering into any agreement or other arrangement for recruitment and all its grammatical variations and cognate expressions shall be construed accordingly;

(h) "wages" shall have the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936;

(i) "workman" means any person employed in or in connection with the work of any establishment to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward whether the terms of employment be express or implied, but does not include any such person —

(i) who is employed mainly in a managerial or administrative capacity; or

(ii) who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem, or exercise, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of managerial nature.

2. *Appointment of registering officers.* — The Government may by order notified in the Official Gazette, —

(a) appoint such person, being officers of Government, as he thinks fit to be registering officers for the purposes of this Act; and

(b) define the limits, within which a registering officer shall exercise the powers conferred on him by or under this Act.

4. *Registration of Establishment.* — (1) Every principal employer of an establishment to which this Act applies shall within such period as the Government may, by notification in the Official Gazette, fix in this behalf make an application to the registering officer, in such form and manner and on payment of such fees as may be prescribed, for the registration of the establishment:

Provided that the registering officer may entertain any such application for registration after the expiry of the period fixed in that behalf, if the registering officer is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) Within one month after the receipt of an application for registration under sub-section (1), the registering officer shall, —

(a) if the application is complete in all respects, register the establishment and issue to the principal employer of the establishment a certificate of registration in the prescribed form; and

(b) if the application is not so complete, return the application to the principal employer of the establishment.

(3) Where within a period of one month after the receipt of an application for registration of an establishment under sub-section (1), the registering officer does not grant under clause (a) of sub-section (2) the certificate of registration applied for and does not return the application under clause (b) of that sub-section, the registering officer shall, within fifteen days of the receipt of an application in this behalf, from the principal employer, register the establishment and issue to the principal employer a certificate of registration in the prescribed form.

5. Revocation of registration in certain cases.— If the registering officer is satisfied either on a reference made to him in this behalf or otherwise that the registration of any establishment has been obtained by misrepresentation or suppression of any material fact or that for any other reason, the registration has become useless or ineffective and, therefore, requires to be revoked, the registering officer may, after giving an opportunity to the principal employer of the establishment to be heard and with the previous approval of the Government, revoke by order in writing the registration and communicate the order to the principal employer:

Provided that where the registering officer considers it necessary so to do for any special reasons, he may, pending such revocation, by order suspend the operation of the certificate of registration for such period as may be specified in the order and serve, by registered post, such order along with a statement of the reasons on the principal employer and such order shall take effect on the date on which such service is effected.

6. Prohibition against employment of migrant workmen without registration.— No principal employer of an establishment to which this Act applies shall employ migrant workmen in the establishment unless a certificate of registration in respect of such establishment issued under this Act is in force:

Provided that nothing in this section shall apply to any establishment in respect of which an application for registration made within the period fixed whether originally or on extension under sub-section (1) of section 4 is pending before a registering officer and for the purpose of this proviso, an application to which the provisions of sub-section (3) of Section 4 apply shall be deemed to be pending before the registering officer concerned till the certificate of registration is issued in accordance with the provisions of that sub-section.

7. Appointment of licensing officer.— The Government may by order notified in the Official Gazette, —

(a) appoint such persons, being officers of Government as it thinks fit to be licensing officers for the purposes of this Chapter, and

(b) define the limits, within which a licensing officer shall exercise the jurisdiction and powers conferred on licensing officers by or under this Act.

8. Licensing of contractors.— (1) With effect from such date as the Government may, by notification in the Official Gazette, appoint, no contractor to whom this Act applies shall recruit any person from outside the State of Goa except under and in accordance with a licence issued in that behalf.

(2) Subject to the provisions of this Act, a licence under sub-section (1) may contain such conditions including, in particular, the terms and conditions of the agreement or other arrangement under which the workman will be recruited, the remuneration payable, hours of work, fixation of wages and other essential amenities including accommodation, water supply and toilet facilities in respect of the migrant workman as the Government may deem fit to force

in accordance with the rules made in that behalf and shall be issued on payment of such fees as may be prescribed:

Provided that if for any special reasons, the licensing officer is satisfied that it is necessary to require any person who has applied for, or who has been issued, a licence to furnish any security for the due performance of the condition of the licence, he may, after communicating such reasons to such person and giving him an opportunity to represent his case, determine in accordance with the rules made in this behalf the security which shall be furnished by such person for obtaining or as the case may be, for continuing to hold the licence.

(3) The security which may be required to be furnished under the proviso to sub-section (2) shall be reasonable and the rules for the purposes of the said proviso shall, on the basis of the number of the workmen employed, the wages payable to them, the facilities which shall be afforded to them and other relevant factors provide for the norms with reference to which such security may be determined.

9. Grant of licences.— (1) Every application for the grant of a licence under sub-section (1) of Section 8 shall be made in the prescribed form and shall contain the particulars regarding the location of the establishment, the nature of process, operation or work for which migrant workmen are to be employed and such other particulars as may be prescribed.

(2) The licensing officer may make such investigation in respect of the application received under sub-section (1) and in making any such investigation, the licensing officer shall follow such procedure as may be prescribed.

(3) A licence granted under Section 8, shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fees and on such conditions as may be prescribed.

10. Revocation, suspension and amendment of licences.— (1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that —

(a) a licence granted under section 8 has been obtained by misrepresentation or suppression of any material fact, or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence, may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity to be heard, by order in writing, revoke the licence or forfeit the security furnished by him under the proviso to sub-section (2) of Section 8 or any part thereof and communicate the order to the holder of the licence:

Provided that where the licensing officer considers it necessary so to do for any special reasons, he may, pending such revocation or forfeiture, by

order, suspend the operation of the licence for such period as may be specified in the order and serve by registered post, such order along with a statement of the reasons on the holder of the licence and such order shall take effect on the date on which such service is effected.

(2) Subject to any rules that may be made in this behalf the licensing officer may vary or amend a licence granted under Section 8.

11. *Appeal.*—(1) Any person aggrieved by an order made under Section 4, Section 5, Section 8 or Section 10 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person nominated in this behalf by the Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

12. *Duties of contractors.*—(1) It shall be the duty of every contractor—

(a) to furnish such particulars and in such form as may be prescribed, to the specified authority about the migrant workman within fifteen days from the date of recruitment or as a case may be the date of employment, and where any change occurs in any of the particulars so furnished, such change shall be notified to the specified authorities.

(b) to issue every migrant workman, a pass-book affixed with a passport size photograph for the workman and indicating in Hindi and English languages and where the language of the workman is not Hindi or English also in the language of the workman.—

(i) the name and place of the establishment wherein workman is employed;

(ii) the period of the employment;

(iii) the proposed rates and modes of payment of wages;

(iv) the return fare payable to the workman on the expiry of the period of his employment and in such contingencies as may be prescribed and in such other contingencies as may be specified in the contract of employment;

(v) such other particulars as may be prescribed.

(c) to furnish in respect of every migrant workman who ceases to be employed, a return in such form and in such manner as may be prescribed, to the specified authority in which shall include a declaration that all the wages and other dues payable to the workman and the fare for the return journey back to his State have been paid.

(2) The contractor shall maintain a pass book referred to in sub-section (1) up to date and cause it to be retained with the migrant workman concerned.

Explanation.—For the purpose of this section and section 13 "specified authority" means such authority as may be specified by the Government in this behalf.

13. *Other facilities.*—It shall be the duty of the every contractor employing the migrant workman in connection with the work of an establishment to which this Act applies

(a) to ensure regular payment of wages to such workman;

(b) to ensure equal pay for equal work in respect of sex;

(c) to ensure suitable conditions of work to such workman having regard to the fact that they are required to work in a State different from their own State.

(d) to provide and maintain suitable residential accommodation, portable water supply, and toilet facilities to such workman during the period of the employment.

(e) to provide the prescribed medical facilities to the workman free of charge.

14. *Inspectors.*—The Government may by notification in the Official Gazette appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Subject to any rules made in this behalf within the local limits for which he is appointed, an inspector may.—

(a) if he has reason to believe that any migrant workman are employed in any premises or place, enter, at all reasonable hours, with such assistants if any, being persons in the service of the Government or any local or any other public authority as he thinks fit, such premises or place for the purpose of—

(i) satisfying himself whether the provisions of this Act in relation to the payment of wages, conditions of service, suitable accommodation, water supply, toilet facilities or other facilities to be provided to such workmen are being complied with;

(ii) examining any register or record or notices required to be kept or exhibited by the provisions of this Act or the rules made thereunder, and requiring the production thereof for inspection;

(b) examine any person found in any such premises or place for the purpose of determining whether such person is a migrant workman.

(c) require any person giving out work to any workmen, to give any information, which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payment to be made for the work.

(d) exercise such other powers as may be prescribed.

(3) Any person required to produce any documents or thing or to give any information required, by inspector under sub-section (2), shall be deemed to be legally bound to do so within the meaning of section 175 and 176 of the Indian Penal Code.

(4) The provisions of the Code of Criminal Procedure, 1973 shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

(5) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

15. *Registers and other records to be maintained.*—(1) Every principal employer and every contractor shall maintain such registers and records giving such particulars of the migrant workmen employed, the nature of work performed by such workmen, the rates of wages paid to the workmen and such other particulars in such form as may be prescribed.

(2) Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the premises of the establishment where the migrant workmen are employed, notices in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.

16. *Obstruction.*—(1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment to which, or a contractor to whom, this Act applies, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

(2) Whoever, wilfully refuses to produce on the demand of any inspector any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does any thing which he had reason to believe is likely to prevent any person from appearing before or being examined by any inspector acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

17. *Contravention of provisions regarding employment of migrant workmen.*—Whoever contravenes any provisions of this Act or of any rules made thereunder regulating the employment of migrant workmen, or contravenes any condition of a licence granted under this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and in the case of continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

18. *Other offences.*—If any person contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided, he shall be punishable with im-

prisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees or with both.

19. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

20. *Cognizance of offences.*—No Court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of, an inspector and no Court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act.

21. *Limitation of prosecutions.*—No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the inspector concerned:

Provided that where the offence consists of disobeying a written order made by an inspector complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

22. *Protection of action taken under Act.*—(1) No suit prosecution or other legal proceedings shall lie against any registering officer, licensing officer or any other employee of the Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made or issued thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or notification or order made or issued thereunder.

23. Power to remove difficulties. — (1) If any difficulty arises in giving effect to the provisions of this Act the Central Government may, by order published in the Official Gazette make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date on which this Act comes into force.

(2) Every order made under this section, shall, as soon as may be after it is made, be laid before the Legislative Assembly.

24. Power to make rules. — (1) The Government may, subject to the conditions of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following, matters namely —

- (a) the form and manner in which an application for the registration of an establishment may be made under section 4, the fees payable thereon and the form of a certificate of registration issued under that section;
- (b) the form in which an application for the grant or renewal of a licence may be made under section 9 and the particulars it may contain;
- (c) the manner in which an investigation is to be made in respect of an application for the grant of a licence and the matters to be taken into account in granting or refusing a licence;
- (d) the form of a licence which may be granted or renewed under this Act, the conditions subject to which the licence may be granted or renewed, the fees payable for the grant or renewal of a licence and the security if any, required to be furnished for the due performance of the conditions of the licence;
- (e) the circumstances under which licences may be varied or amended under section 10;
- (f) the form and the manner in which appeals may be filed under section 12 and the procedure to be followed by appellate officers in disposing of the appeals;
- (g) the powers that may be exercised by inspectors under section 4;

- (h) the form of registers and records to be maintained, and the particulars and information to be contained, in notices to be exhibited by the principal employers and contractors under section 15;
- (i) the manner of submission of returns, and the forms in which, and the authorities to which, such returns may be submitted;
- (j) legal aid to inter-State migrant workmen;
- (k) any other matter which is required to be, or may be prescribed under this Act;
- (g) the type of accommodation and toilets and water supply to be provided to the migrant workmen.

Statement of Objects and Reasons

There is a continuous in flow of labourers from the neighbouring States in Goa which are absorbed in construction of buildings and other activities. Many of such labourers are not paid adequately nor are provided with adequate accommodation and water supply and they are compelled by circumstances to put up huts in every available open space where they live without proper water supply, toilet facilities and proper drainage system.

The areas where such labourers dwell under slum conditions become the source of infectious diseases which threaten the health of the neighbouring population.

This Bill seeks to provide for regulation of employment of migrant workmen and to provide for their conditions of service by casting a duty on the employers to pay adequate wages and also adequate accommodation, water supply and toilet facilities to such migrant workmen.

Financial Memorandum

Initially a token provision of Rs. 10,000/- may be made as the Act can be implemented with the existing Government machinery for the Labour Department.

Panaji,
1st August, 1989.

LUIZINHO FALEIRO
M. L. A.

Assembly Hall,
Panaji,
1st August, 1989.

M. M. NAIK
Secretary to the Legislative
Assembly of Goa.